

**EXHIBIT C**

## Cutini, Michael

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**From:** Swinger, Robert A. [RSchwinger@chadbourne.com]  
**Sent:** Monday, August 13, 2012 2:54 PM  
**To:** Harris, Adam; Cutini, Michael  
**Cc:** Ashley, Marc D.; Miller, Elizabeth; Moloney, Lori  
**Subject:** ResCap -- Cerberus document production to Examiner  
**Attachments:** Examiner's Metadata and Production Instructions re ESI.pdf

Dear Adam,

As may have mentioned to you or others from your firm in discussions that have been held since the appointment of the Examiner, we would like to treat as the starting place for the Examiner's discovery of Cerberus in the ResCap bankruptcy the documents requests that Cerberus received from the Creditors' Committee through its Rule 2004 subpoena to Cerberus. Accordingly, we would appreciate if you would formally confirm that Cerberus will now treat these requests as if they had been issued to Cerberus by the Examiner, without prejudice to any additional categories of documents that the Examiner may request as his Investigation progresses.

We were not clear as to whether Cerberus had yet started any production of material to the Creditors' Committee, but if so, we ask that you immediately provide a copy to us of whatever has been previously to the Creditors' Committee to date.

In this and further document production, we are now in the process of sending out to parties some general technical/logistical information and procedures with respect to their document productions to the Examiner. We accordingly set forth the following:

1. With respect to ESI and documents produced in electronic format, attached please find the Examiner's instructions regarding production format, metadata and related matters, which the Examiner asks that you follow in future productions of such material. To the extent that electronic material that parties have produced to date may not conform to these instructions, the Examiner will be asking that the parties re-produce that material in accordance with these instructions unless the production format previously provided is generally acceptable and the metadata provided generally comports with current practices in e-discovery.
2. In order to avoid delays in being able to make material available in the Document Depository once the Document Depository is approved by the Court and is up and running, to the extent that you produce material to us on physical media (i.e., as opposed to via FTP link), we ask that you provide the production media to us in duplicate, so that the Examiner's review is not delayed by the need to post that material in the Document Depository, or vice versa.
3. As stated in the Examiner's proposed order for the Document Depository, Discovery Material will be loaded into the Document Depository "in the form in which it was produced to the Examiner." Accordingly, please remember and abide by the provisions in that proposed order concerning the need to clearly electronically segregate and identify "Professionals' Eyes Only" and "Highly Confidential" material when it is being produced to the Examiner, so that it can be handled appropriately in regard to the Document Depository. In other words, "Professionals' Eyes Only" and "Highly Confidential" material needs to be separately batched when delivered to us, because the Examiner will not be electronically sifting out multiple categories of material from the same electronic batch, but rather will be loading batches of material into the Document Depository wholesale. A mere flag or field buried in a load file regarding a document's confidentiality status, or a confidentiality legend placed on the image of the document, will not suffice.
4. Consistent with the instructions already set forth in the Creditors' Committee's Rule 2004 subpoenas, privilege logs must be provided to us on a timely basis in connection with any documents withheld from production on privilege/work product grounds. Our intention is to post these privilege logs in the Document Depository. Material for which such logging is required under the applicable rules may not be omitted from such logs solely on the ground that a copy of

such material was provided to the Examiner on a "Highly Confidential" basis. Rather, such material should continue to be logged as it would ordinarily, as the material remains unavailable to other parties due to the assertion of such privilege/work product. The fact of whether or not such material was provided to the Examiner on a "Highly Confidential" basis need not be noted on such logs.

5. Our contact persons regarding document productions will be Beth Miller, tel. (212) 408-5431, [emiller@chadbourne.com](mailto:emiller@chadbourne.com), and our Litigation Support Manger, Lori Moloney, tel. (212) 408-8052, [lmoloney@chadbourne.com](mailto:lmoloney@chadbourne.com).

Regarding e-mail production, we understand that you may have identified at least some potential e-mail custodians to counsel for the Creditors' Committee. If so, we ask that you provide us with that same information.

It is our understanding that the Creditors' Committee has not yet proffered a list of requested search terms to you. If this is incorrect, or any agreements were reached between Cerberus and the Creditors' Committee as to search terms, please let us know. In any event, we hope to be in touch with you shortly regarding search terms to be requested by the Examiner..

Best regards,

R. A. S.

**Robert A. Schwinger**

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